

## 15A Am. Jur. 2d Clerks of Court § 50

American Jurisprudence, Second Edition | May 2021 Update

### Clerks of Court

Lonnie E. Griffith, Jr., J.D.

### V. Powers and Duties

#### C. Particular Powers and Duties

#### 2. Custody and Care of Records

## § 50. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  69

### Trial Strategy

[Locating Public Records](#), 2 Am. Jur. Trials 409 §§ 12 to 15 (records of county clerk)

The clerk of court is the custodian of court records,<sup>1</sup> with the duty or function to make and keep an accurate record<sup>2</sup> and docket<sup>3</sup> of the proceedings in the court,<sup>4</sup> the court's orders and judgments,<sup>5</sup> all documents submitted to the clerk,<sup>6</sup> records used in appeals,<sup>7</sup> and all documents used by the court in its decision-making capacity.<sup>8</sup>

A clerk of court does not have independent ownership of court records,<sup>9</sup> and has a ministerial duty to permit the inspection and copying of the court's records in civil cases.<sup>10</sup>

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### Footnotes

- <sup>1</sup> [Lapeer County Clerk v. Lapeer Circuit Court](#), 469 Mich. 146, 665 N.W.2d 452 (2003); [State v. McCraine](#), 214 W. Va. 188, 588 S.E.2d 177 (2003).
- <sup>2</sup> [In re Strickhausen](#), 994 S.W.2d 936 (Tex. App. Houston 1st Dist. 1999).

Clerk is responsible for maintaining traffic files for the judge or magistrate. [Speight v. Presley](#), 2008 OK 99, 203 P.3d 173 (Okla. 2008).

Clerk must maintain an accurate record of the date of filing. [Laidlaw Energy and Environmental, Inc. v. Town of Ellicottville](#), 60 A.D.3d 1284, 875 N.Y.S.2d 668 (4th Dep't 2009).

[Stewart v. Kentucky Lottery Corp.](#), 986 S.W.2d 918 (Ky. Ct. App. 1998) (electronic computerized "case history" or docket sheet).

[Copley Press, Inc. v. Superior Court](#), 6 Cal. App. 4th 106, 7 Cal. Rptr. 2d 841 (4th Dist. 1992).

[State ex rel. Core v. Merrifield](#), 202 W. Va. 100, 502 S.E.2d 197 (1998).

[Sullivan v. Eighth Judicial Dist. Court In and For County of Clark](#), 111 Nev. 1367, 904 P.2d 1039 (1995).

[In re Strickhausen](#), 994 S.W.2d 936 (Tex. App. Houston 1st Dist. 1999).

[In re Search Warrant #5077/91](#), 96 Ohio App. 3d 737, 645 N.E.2d 1304 (10th Dist. Franklin County 1994).

[Lapeer County Clerk v. Lapeer Circuit Court](#), 469 Mich. 146, 665 N.W.2d 452 (2003).

[Lapeer County Clerk v. Lapeer Circuit Court](#), 469 Mich. 146, 665 N.W.2d 452 (2003).

Clerk acted in judicial capacity when making court records available to the public. [Rieger v. Montgomery Cty. Clerk of Courts](#), 2009-Ohio-426, 2009 WL 242668 (Ohio Ct. App. 2d Dist. Montgomery County 2009).

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## 15A Am. Jur. 2d Clerks of Court § 51

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### Clerks of Court

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### V. Powers and Duties

### C. Particular Powers and Duties

### 2. Custody and Care of Records

## § 51. Searching and certifying records

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  69

### Forms

Forms relating to authentication of documents, generally, see Am. Jur. Pleading and Practice Forms—Clerks of Court [\[Westlaw®: Search Query\]](#)

Forms relating to certificate of clerk authenticating documents, generally, see Am. Jur. Legal Forms 2d—Clerks of Court [\[Westlaw® Search Query\]](#)

It is the duty of a clerk of a court to attest and certify the records of the court,<sup>1</sup> but the clerk's certificate is not evidence of any fact beyond that which the law requires the clerk to certify.<sup>2</sup> A clerk is not required to certify an instrument that does not conform to the records in his or her office.<sup>3</sup>

A court clerk may be under a statutory duty to make searches and certify the results.<sup>4</sup>

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### Footnotes

- 1 Lewandowski v. Office of Court Admin., 173 Misc. 2d 335, 660 N.Y.S.2d 959 (Sup 1997); Petticord v.
- 2 Joyce, 516 Pa. 35, 531 A.2d 1383 (1987).
- 3 Farmers State Bank of Riverton v. Investors Guaranty Corp., 48 Wyo. 319, 45 P.2d 1057 (1935).
- 4 Touchton v. Echols County, 211 Ga. 85, 84 S.E.2d 81 (1954).
- Petticord v. Joyce, 516 Pa. 35, 531 A.2d 1383 (1987).

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